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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,839	01/24/2001	Philip D. Mooney	129250-001021/US	2205
32498 7590 04/15/2011 CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC P.O. BOX 1995 VIENNA, VA 22183				
EXAMINER NGUYEN, TU X				
ART UNIT 2618		PAPER NUMBER		
MAIL DATE 04/15/2011		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

09/767,839

Applicant(s)

MOONEY ET AL

Examiner

TU X. NGUYEN

Art Unit

2618

Period for Reply -- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4.5, 7.8, 13-17, 19-23, 38 and 51-55 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4.5, 7.8, 13-17, 19-23, 38 and 51-55 is/are allowed.
- 6) ☒ Claim(s) 9, 10, 41, 42, 45 and 46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/24/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-943)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's arguments with respect to claims 9-10, 41-42 and 45-46 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 9-10, 41-42 and 45-46, are rejected under 35 U.S.C. 102(e) as being anticipated by Anvekar et al. (US Pub. 2002/0068610).

Regarding claim 9, Anvekar et al. discloses said wireless audio sources are in RF communication with said wireless receiver (fig.1).

Regarding claim 10, Anvekar et al. discloses said wireless receiver and said wireless audio sources are Bluetooth TM compliant (par.004).

Regarding claim 41, Anvekar et al. discloses a method of switching among wireless audio sources, comprising: receiving a plurality of Bluetooth TM compliant transmissions at a headset, each including a respective input audio signal from a same network, from respective electronic devices; and selecting at least one of said received audio signals at the headset , for output to a headset, overlaid on an initially selected

another audio signal at the headset in accordance with at least one stored selection instruction, said selection instruction specifying a designated triggering event for triggering said selection (par.014, 020, "two or more audio signal streams may be mixed for simultaneous reproduction over speaker" reads on "overlaid").

Regarding claims 42 and 46, Anvekar et al. discloses the network comprises a piconet (par.014).

Regarding claim 45, Anvekar et al. discloses a programmable headset audio output device (par.019, 022), comprising: a wireless receiver in the headset which receives a plurality of audio signals from a same network transmitted from respective wireless audio sources; a storage device that stores at least one selection instruction which specifies a designated triggering event for triggering a selection of one of said plurality of audio signals; a programmable switch in the headset coupled to said storage device and said wireless receiver that selects one of said plurality of audio signals for output overlaid on an initially selected audio signal in the headset according to said at least one stored selection instruction and said designated triggering event; and a headset for supporting said wireless receiver, said storage device, said programmable switch and at least one headset speaker, said at least one headset speaker in the headset coupled to said programmable switch to aurally reproduce said selected one of said plurality of audio signals, selected for output, overlaid on the initially selected another audio signal (par.014, 020).

Allowable Subject Matter

Claims 4-5, 7-8, 13-17, 19-23, 51-55 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claims 38 and 50, the prior art fails to teach "wherein said designated triggering event is receipt of an advertising message from a merchant", as cited in the claim.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tu X Nguyen/

Primary Examiner, Art Unit 2618

4/11/11